

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 98-277-C - ORDER NO. 98-787
OCTOBER 12, 1998

IN RE: Application of EZ Talk Communications,)	ORDER GRANTING
L.L.C. for a Certificate of Public Convenience)	CERTIFICATE TO
and Necessity to Provide Local Exchange)	PROVIDE LOCAL
Telecommunications Services within the State)	EXCHANGE AND
of South Carolina.)	INTEREXCHANGE
)	TELECOMMUNICATIONS
)	SERVICES

This matter comes before the Public Service Commission of South Carolina ("the Commission") by way of the Application of EZ Talk Communications, L.L.C. ("EZ Talk" or "the Company") for authority to provide both local exchange and long distance telecommunications services within the State of South Carolina. The Application was filed pursuant to S.C. Code Ann. §§ 58-9-280 and 56-9-520 and the Regulations of the Commission.

By letter, the Commission's Acting Executive Director instructed EZ Talk to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. EZ Talk complied with this instruction and provided the Commission with proof of publication of the Notice of Filing.

A Petition to Intervene was received from the South Carolina Telephone Coalition ("SCTC"). Prior to the hearing, counsel for SCTC filed a Stipulation in which EZ Talk stipulated that it would only seek authority in non-rural local exchange ("LEC") service areas of South Carolina and that it would not provide any local service to any customer located in a rural incumbent's service area, unless and until EZ Talk provided written notice of its intent prior to the date of the intended service. EZ Talk also stipulated that it was not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas. EZ Talk agreed to abide by all State and Federal laws and to participate to the extent it may be required to do so by the Commission in support of universally available telephone service at affordable rates. The SCTC withdrew its opposition to EZ Talk's Application provided the conditions contained in the Stipulation are met. At the hearing EZ Talk offered the Stipulation into evidence. The Stipulation is approved and attached hereto as Exhibit 1.

A hearing was commenced on September 23, 1998, at 11:00 a.m., in the Commission's Hearing Room. The Honorable Philip Bradley, Chairman, presided. EZ Talk was represented by John J. Pringle, Jr., Esquire. Florence P. Belser, Staff Counsel, represented the Commission Staff.

Randy Beakley, a board member and one of the owners of EZ Talk, appeared and offered testimony in support of EZ Talk's application. The record reveals that EZ Talk is a privately held Texas limited liability company. According to Mr. Beakley, EZ Talk proposes to offer resold local and interexchange telecommunications services in all areas of South Carolina served by BellSouth, GTE, and Sprint/United. Mr. Beakley explained that EZ Talk possesses the technical, financial, and managerial resources and abilities to

provide interexchange and local exchange telecommunications services. Mr. Beakley stated that the management team of EZ Talk is composed of individuals with significant business experience. Further, the record reveals that EZ Talk has adequate financing and financial ability to provide the services which it seeks to provide. Mr. Beakley stated that EZ Talk was one of the first CLECs to be operational with Southwestern Bell's OSS interface and that EZ Talk has developed a proprietary software interface to provide state of the art customer service. Further, Mr. Beakley stated that EZ Talk is currently licensed in Texas, California, Florida, Kentucky, Maryland, Nevada, Oklahoma, and New Jersey.

Mr. Beakley offered that EZ Talk's entry into the telecommunications industry provides customers with choice, advances the goals of Universal Service, and makes more efficient use of the existing networks. Mr. Beakley also testified that approval of EZ Talk's application would not adversely impact affordable local exchange service, and no party of record offered any evidence that the provision of local exchange service by EZ Talk will adversely affect local rates.

Mr. Beakley testified that the Company would operate in accordance with the Commission rules, regulations, guidelines and Commission Orders. Mr. Beakley also stated that EZ Talk would support universally available telephone service at affordable rates and that the provision of local service by EZ Talk would not adversely impact affordable local service. Mr. Beakley specifically stated that the services EZ Talk will provide will meet the service standards of the Commission. Additionally, the record reveals EZ Talk's services, operations and marketing procedures.

By its Application, EZ Talk requested a waiver from maintaining its books and records under the Uniform System of Accounts. EZ Talk asserts that it maintains its books and records according to General Accepted Accounting Principles (“GAAP”) and that the Commission will be able to obtain any information necessary to evaluate EZ Talk’s performance under GAAP. EZ Talk further offers that a waiver of the requirement that books maintained under the Uniform System of Accounts will allow EZ Talk to avoid maintaining two sets of books. EZ Talk also requested a waiver of the requirement of publishing a directory and states that it will arrange for its customers to be published in the ILEC directory. Finally, EZ Talk seeks exemption from any report not applicable to a competitive local provider and reserves the right to seek any regulatory waiver which may be required for EZ Talk to compete effectively in South Carolina’s local exchange service resale market.

After full consideration of the applicable law, the Company’s application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law.

FINDINGS OF FACT

1. EZ Talk is organized as a limited liability company under the laws of the State of Texas.
2. EZ Talk wishes to provide local exchange services and interexchange services within the State of South Carolina.
3. The Commission finds that EZ Talk possesses the technical, financial, and managerial resources sufficient to provide the service requested.

4. The Commission finds that EZ Talk's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. § 58-9-280(B)(3) (Supp. 1997).

5. The Commission finds that EZ Talk will support universally available telephone service at affordable rates.

6. The Commission finds that EZ Talk will provide services which will meet the service standards of the Commission.

7. The Commission finds that the provision of local exchange service by EZ Talk "does not otherwise adversely impact the public interest." S.C. Code Ann. §58-9-280(B)(5) (Supp. 1997).

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to EZ Talk to provide competitive intrastate local exchange services in the areas of South Carolina served by BellSouth, GTE, and Sprint/United and to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), directory assistance, travel card service or any other services authorized for resale by tariffs of carriers approved by the Commission. Any proposal to provide local exchange service to rural service areas is subject to the terms of the Stipulation between EZ Talk and SCTC.

2. EZ Talk shall file, prior to offering local exchange services in South Carolina, its final tariff of its local service offerings conforming to all matters discussed with Staff and comporting with South Carolina law in all matters.

3. The Commission adopts a rate design for EZ Talk for its long distance services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GET Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

With regard to its long distance services rates, EZ Talk shall not adjust its rates below the approved maximum level without notice to the Commission and to the public. EZ Talk shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. § 58-9-540 (Supp. 1997).

4. If it has not already done so by the date of issuance of this Order, EZ Talk shall file its revised maximum long distance tariff and an accompanying price list within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

5. EZ Talk is subject to access charges pursuant to Commission Order No. 86-584 in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

6. With regard to the Company's resale interexchange service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

7. EZ Talk shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If EZ Talk changes underlying carriers, it shall notify the Commission in writing.

8. With regard to the origination and termination of toll calls within the same LATA, EZ Talk shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993).

9. EZ Talk shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports is indicated on Attachment A.

10. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on

a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours.

EZ Talk shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. Attachment B shall be utilized for the provision of this information to the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced, and the Company is directed to comply with the Commission regulations unless waived by the Commission.

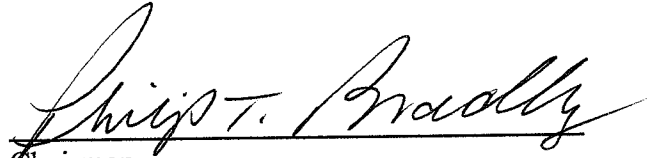
11. EZ Talk shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

12. As a condition of offering prepaid long distance services, the Commission requires the Company to post with the Commission a bond in the form of a Certificate of Deposit worth \$5,000 drawn in the name of the Public Service Commission of South Carolina or a surety bond in the amount of \$5,000 which is payable to the Commission. The Certificate of Deposit shall be drawn on federal or state chartered banks or savings and loan associations which maintain an office in this state and whose accounts are insured by either the FDIC or the Federal Savings and Loan Insurance Corporation. A surety bond shall be issued by a duly licensed bonding or insurance company authorized to do business in South Carolina. This condition of a bond may be reviewed in one year.

13. By its Application, EZ Talk requested waivers of certain Commission Regulations. EZ Talk requested a waiver from maintaining its books and records in conformance with the Uniform System of Accounts and requests that it be allowed to maintain its books and records using Generally Accepted Accounting Principles. EZ Talk also requested that it not be required to publish local exchange directories and stated that it would make arrangements with ILECs whereby the names of EZ Talk's customers will be included in the directories published by the ILEC. EZ Talk also reserved the right to seek any regulatory waivers which EZ Talk determines may require EZ Talk to compete effectively in South Carolina's local exchange service resale market. The Commission grants (1) a waiver regarding the use of the Uniform System of Accounts provided that EZ Talk maintains its books and records using Generally Accepted Accounting Principles and (2) a waiver regarding the publishing of a directory provided EZ Talk makes arrangements with the ILECs to include the names of EZ Talk's customers in the ILEC directory. Further, the Commission recognizes EZ Talk's reservation to request waivers of any Commission Rule or Regulations which EZ Talk may determine is necessary for EZ Talk to compete effectively in South Carolina. However, EZ Talk is directed to comply with all other Commission regulations unless expressly waived by the Commission.

14. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Acting Executive Director

(SEAL)

ANNUAL INFORMATION ON SOUTH CAROLINA OPERATIONS FOR INTEREXCHANGE COMPANIES AND AOS'S

COMPANY NAME

FEI NO.

ADDRESS

CITY, STATE, ZIP CODE

PHONE NUMBER

- (1) SOUTH CAROLINA OPERATING REVENUES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (2) SOUTH CAROLINA OPERATING EXPENSES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (3) RATE BASE INVESTMENT IN SOUTH CAROLINA OPERATIONS* FOR
12 MONTHS ENDING DECEMBER 31 OR FISCAL YEAR ENDING _____.
- * THIS WOULD INCLUDE GROSS PLANT, ACCUMULATED DEPRECIATION,
MATERIALS AND SUPPLIES, CASH WORKING CAPITAL, CONSTRUCTION WORK IN
PROGRESS, ACCUMULATED DEFERRED INCOME TAX, CONTRIBUTIONS IN AID OF
CONSTRUCTION AND CUSTOMER DEPOSITS.
- (4) PARENT'S CAPITAL STRUCTURE* AT DECEMBER 31 OR FISCAL YEAR ENDING
_____.
- * THIS WOULD INCLUDE ALL LONG TERM DEBT (NOT THE CURRENT PORTION
PAYABLE), PREFERRED STOCK AND COMMON EQUITY.
- (5) PARENT'S EMBEDDED COST PERCENTAGE (%) FOR LONG TERM DEBT AND
EMBEDDED COST PERCENTAGE (%) FOR PREFERRED STOCK AT YEAR ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (6) ALL DETAILS ON THE ALLOCATION METHOD USED TO DETERMINE THE AMOUNT
OF EXPENSES ALLOCATED TO SOUTH CAROLINA OPERATIONS AS WELL AS
METHOD OF ALLOCATION OF COMPANY'S RATE BASE INVESTMENT (SEE #3
ABOVE).

SIGNATURE

NAME (PLEASE TYPE OF PRINT)

TITLE

DOCKET NO. 98-277-C - ORDER NO. 98-787
OCTOBER 12, 1998
ATTACHMENT B

**INFORMATION OF THE AUTHORIZED UTILITY
REPRESENTATIVES FOR INTEREXCHANGE, LOCAL
AND AOS COMPANIES**

PURSUANT TO SOUTH CAROLINA PUBLIC SERVICE COMMISSION
REGULATION 103-612.2.4(b), each utility shall file and maintain with the Commission
the name, title, address, and telephone number of the persons who should be contacted in
connection with Customer Relations/Complaints.

Company Name/DBA Name

Business Address

City, State, Zip Code

Authorized Utility Representative (Please Print or Type)

Telephone Number

Fax Number

E-Mail Address

This form was completed by

Signature

If you have any questions, contact the Consumer Services Department at 803-737-5230

POSTED
M 7-21-98

ACCEPTED
Legal 1/11/98 7/21/98

BEFORE
THE PUBLIC SERVICE COMMISSION
OF
SOUTH CAROLINA

Docket No. 98-277-C

Re: Application of EZ Talk Communications, L.L.C.)
for a Certificate of Public Convenience)
and Necessity to Provide Local Exchange)
Telecommunications Services in)
South Carolina)
)
)
)

S. C. PUBLIC SERVICE COMMISSION
RECEIVED
JUL 21 1998

S. C. PUBLIC SERVICE COMMISSION
RECEIVED
JUL 22 1998
STIPULATION UTILITIES DEPARTMENT

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and EZ Talk Communications, L.L.C. ("EZ Talk") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, the necessity for SCTC's intervention in this matter is avoided and SCTC withdraws its opposition to EZ Talk's Application. SCTC and EZ Talk stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to EZ Talk, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.

2. EZ Talk stipulates and agrees that any Certificate which may be granted will authorize EZ Talk to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.

3. EZ Talk stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.

4. EZ Talk stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless and until EZ Talk provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, EZ Talk acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. EZ Talk stipulates and agrees that if, after EZ Talk gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law, or the Commission institutes a proceeding of its own, then EZ Talk will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. EZ Talk acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs, and this Stipulation in no way suspends or adversely

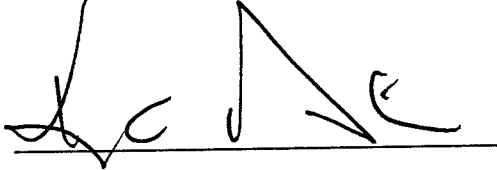
affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

8. EZ Talk agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

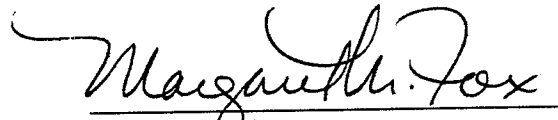
9. EZ Talk hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

AGREED AND STIPULATED to this 20th day of July, 1998.

EZ Talk Communications, L.L.C.

A handwritten signature in black ink, appearing to be "EZ Talk", written over a horizontal line.

South Carolina Telephone Coalition:

A handwritten signature in black ink, appearing to be "Margaret M. Fox", written over a horizontal line.

M. John Bowen, Jr.
Margaret M. Fox
McNair Law Firm, P.A.
Post Office Box 11390
Columbia, South Carolina 29201
(803) 799-9800

Attorneys for the South Carolina
Telephone Coalition

ATTACHMENT A

South Carolina Telephone Coalition Member Companies for Purposes of Local Service Stipulation

ALLTEL South Carolina, Inc.
Bluffton Telephone Company, Inc.
Chesnee Telephone Company
Chester Telephone Company
Farmers Telephone Cooperative, Inc.
Ft. Mill Telephone Company
Hargray Telephone Company, Inc.
Heath Springs Telephone Company Inc.
Home Telephone Company, Inc.
Horry Telephone Cooperative, Inc.
Lancaster Telephone Company
Lockhart Telephone Company
McClellanville Telephone Company
Norway Telephone Company
Palmetto Rural Telephone Cooperative, Inc.
Piedmont Rural Telephone Cooperative, Inc.
Pond Branch Telephone Company
Ridgeway Telephone Company
Rock Hill Telephone Company
Sandhill Telephone Cooperative, Inc.
St. Stephen Telephone Company
West Carolina Rural Telephone Cooperative, Inc.
Williston Telephone Company

BEFORE
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Docket No. 98-277-C

Re: Application of EZ Talk Communications, L.L.C.)
for a Certificate of Public Convenience and)
Necessity to Provide Local Exchange)
Telecommunications Services in South Carolina)
_____)

CERTIFICATE OF SERVICE

I, Mia DuRant Briggs, do hereby certify that this day I caused to have served the foregoing
Stipulation to the below named party of record, by having same delivered as indicated, this 21st day
of July, 1998, and addressed as follows:

U.S. MAIL - FIRST CLASS POSTAGE AFFIXED:

Kyle F. Dickson, Esquire
MAXWELL, BAKER & MCFATRIDGE, P.C.
17625 El Camino Real, Suite 310
Houston, Texas 77058



Mia DuRant Briggs

Columbia, South Carolina